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Stephan W. Currie, Executive Director

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Dear Chair Lower and Committee Members:

The Michigan Association of Counties has reviewed the adopted substitute to House Bill 4334, sponsored by Rep. Beau LaFave. While we do understand the intent of the sponsor, our organization has several serious concerns regarding the language contained in the H-1 version, as adopted by the committee. We outline key considerations below and remain open to further discussions:

- *Local control:* The bill looks to remove the ability of locally elected representatives, potentially even when in compliance with the most recent order by the U.S. attorney general on this subject, to create policies most in line with the wishes of their residents.
- *Breadth:* The language continues to be overly broad in nature, which could lead to unnecessary and costly litigation for our residents. For example, what constitutes communicating and cooperating? Who would be an appropriate federal official? These terms are undefined and would most likely have to be litigated to determine their full scope and meaning.
- *Costs imposed on residents:* Due to the breadth of the language, as indicated above, some local units may find themselves defending against what may be perceived violations. These costs, even if a county were to prevail on the merits, will be borne by the residents of the area, including those bringing legal action.
- *Impact on employees:* Employees could be subject to civil fines for doing their jobs. This could put them in the difficult position of having to choose between carrying out employer policies or subjecting themselves to potential penalties. This could be especially problematic for those enforcing policies of a different jurisdiction under contract or interlocal agreement. Also, a \$7,500 maximum fine seems excessive compared to other state civil and penal fines for work-related actions.
- *Court policing power:* The bill requires a court to take certain actions if a local unit is found in violation. One such action is ordering the county to amend or repeal a law, ordinance, policy or rule. This seems to indicate the court is requiring an elected body to take legislative action and could constitute a separation of powers violation.

MAC's Board of Directors has not met to take an official position on this bill. However, MAC is committed to complying with federal law.

Again, thank you for the opportunity to provide our input.

Respectfully yours,

Stephan W. Currie
Executive Director